PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION

(LAW DEPARTMENT)

No LAW 82 LCA 1062, dated Bangalore, 1st August 1962

Ordered that the Christian Marriage and Matrimonial Causes Bill, 1962 (62 of 1962), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 22nd June 1962, be republished in the *Mysore Gazette*, for general information

By Order and in the name of the Governor of Mysore,

H K ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department

*BILL NO 62 OF 1962

A Bill to amend and codify the law relating to marriage and matrimonial causes among Christians

BE IT enacted by Parliament in the Thirteenth Year of the Republic of India as follows —

CHAPTER I

PRELIMINARY

1 Short title, extent and commencement —(1) This Act may be called the Christian Marriage and Matrimonial Causes Act, 1962

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill

(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to Christians domiciled in the territories to which this Act extends who are outside the said territories

(3) Section 7 shall come into force at once, and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

2 Definitions —In this Act, unless the context otherwise requires,—

(*a*) "Christian" means a person professing the Christian religion ,

(*b*) "Church building" includes any chapel or other building generally used for public Christian worship ;

(*c*) "desertion" means the withdrawal by one spouse, without reasonable cause and without the consent or against the wish of the other spouse, from cohabitation with the other spouse with the intention of bringing cohabitation permanently to an end , and its grammatical variations and cognate expressions shall be construed accordingly ;

(*d*) "diplomatic officer" means an ambassador, envoy, minister, charge d' affaires, high commissioner, commissioner or other diplomatic representative, or a counsellor or secretary of an embassy, legation or high commission ,

(*e*) "district", in relation to a Marriage Registrar, means the area for which he is appointed as such under this Act ,

(*f*) "district court" means, in any area for which there is a city civil court, that court, and, in any other area, the principal civil court of original jurisdiction, and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act ,

(*g*) "India" means the territories to which this Act extends,

(*h*) "licensed Minister" means a Minister of Church licensed under section 8 to solemnize marriages under this Act ,

(*i*) "Marriage Registrar" means a Marriage Registrar appointed under section 9 or section 10,

(*j*) "Minister of a recognised Church" means a Minister of any Church which is a recognised Church within the meaning of this Act,

(*k*) "minor" means a person who has not completed the age of eighteen years,

(*l*) "prescribed" means prescribed by rules made under this Act,

(*m*) "prohibited relationship"—a man and any of the persons mentioned in Part I of the First Schedule, and a woman and any of the persons mentioned in Part II of the said Schedule, are within prohibited relationship,

Explanation —"Relationship" includes,—

(*a*) relationship by half or uterine blood as well as by full blood,

(*b*) illegitimate blood relationship as well as legitimate, and all terms of relationship in this Act shall be construed accordingly,

(*n*) "recognised Church" means—

(*a*) the Church of Rome, that is to say, the Church which regards the Pope of Rome as its spiritual head,

(*b*) the Church of India, Burma and Ceylon,

(*c*) the Church of Scotland as by law established,

(*d*) any other Church declared to be a recognised Church under section 7,

(*o*) "Registrar-General" means—

(*i*) a Registrar-General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), and

(*ii*) in relation to any territories to which that Act does not extend, an officer performing the functions of a Registrar-General of Births, Deaths and Marriages under any corresponding law in force in those territories,

(*p*) "rule", in any expression denoting rules of any Church, includes a rite, ceremony or custom of that Church

CHAPTER II

CONDITIONS FOR CHRISTIAN MARRIAGE

3 Marriages between Christians to be solemnised according to Act —Every marriage between persons both of whom are Christians shall be solemnized in accordance with the provisions of this Act, unless the same is solemnized under the provisions of the Special Marriage Act, 1954 (43 of 1954)

4 Conditions of marriage —A marriage may be solemnized between any two Christians if the following conditions are fulfilled, namely —

(*i*) neither party has a spouse living at the time of the marriage ,

(*ii*) the parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two ,

(*iii*) neither party is an idiot or a lunatic at the time of the marriage ,

(*iv*) the bridegroom has completed the age of eighteen years and the bride the age of fifteen years at the time of the marriage ,

(*v*) where the bride has not completed the age of eighteen years, the consent in writing of her guardian in marriage or the permission of the district court under sub-section (4) of section 5, has been obtained for the marriage , and

(*vi*) where the marriage is solemnized outside India, both parties are domiciled in India

5 Consent of guardian in marriage —(1) Whenever the consent of a guardian in marriage is necessary for a bride under this Act, the persons entitled to give such consent shall be the following in the order specified hereunder, namely —

(*a*) the father ,

(*b*) the mother ,

(*c*) the paternal grandfather ,

(*d*) the paternal grandmother ,
(*e*) the brother by full blood , as between brothers, the elder being preferred ,
(*f*) the brother by half blood , as between brothers by half blood, the elder being preferred

Provided that the bride is living with him and is being brought up by him ,

(*g*) the paternal uncle by full blood , as between paternal uncles, the elder being preferred ,
(*h*) the maternal grandfather ,
(*i*) the maternal grandmother ,
(*j*) the maternal uncle by full blood, as between maternal uncles, the elder being preferred

Provided that the bride is living with him and is being brought up by him

(2) No person shall be entitled to act as a guardian in marriage under sub-section (1) unless such person has himself completed the age of twenty-one years

(3) Where any person entitled to be the guardian in marriage under sub-section (1) refuses, or is for any cause unable or unfit, to act as such , the person next in order shall be entitled to be the guardian.

(4) Where no such person as is referred to in sub-section (1) is living and willing and able and fit to act as guardian in marriage, or where any guardian in marriage, without just cause, withholds his consent to the marriage, the permission of the district court shall be necessary for the marriage of the bride

(5) The permission of the district court for the marriage of the bride under sub-section (4) may be applied for by a petition made by the parties to the intended marriage

(6) Where such a petition is made, the district court shall examine the allegations of the petition in a summary manner and shall decide the matter after giving a reasonable opportunity to the parties to be heard

(7) The decision of the district court granting or refusing permission under sub-section (4) shall be final

(8) Notwithstanding anything contained in sub-section (1), where any person has been appointed or declared by a court to be the guardian of the person of the bride, he alone shall be entitled to act as guardian in marriage

(9) Nothing in this section shall affect the jurisdiction of a court to prohibit by injunction an intended marriage if, in the interests of the bride for whose marriage consent is required, the court thinks it necessary to do so

CHAPTER III

Solemnization of Christian Marriages

A —*Persons authorised to solemnize marriages*

6 Who may solemnize marriages —Marriages may be solemnized under this Act—

(*a*) by any Minister of a recognised Church ,

(*b*) by any Minister of Church licensed under section 8 to solemnize marriages ,

(*c*) by, or in the presence of, a Marriage Registrar appointed under section 9 or section 10

7 Recognised Churches —(1) For the purpose of advising the Central Government as respects Churches to be declared as recognised Churches within the meaning of sub-clause (*d*) of clause (*n*) of section *2*, the Central Government shall, by notification in the Official Gazette, establish a Committee consisting of such number of Christians, not exceeding five, as the Central Government may think fit to appoint, and it shall be the duty of the Committee to examine applications by Churches for being declared to be recognised Churches and to make recommendations to the Central Government thereon

(2) In making any recommendation to the Central Government under sub-section (1), the Committee shall have regard to the following, among other matters, namely —

(i) whether the Church is properly organised

(ii) whether the Church is registered under any law for the time being in force relating to the registration of societies in general or religious societies in particular ,

(iii) whether the Church has well-established rules for the solemnization of marriages ,

(iv) whether the Church has proper places of worship ,

(v) whether, according to the rules of the Church, clergymen are ordinarily ordained to solemnize marriages ,

(vi) whether the strength or standing of the Church is such as to justify recognition being accorded thereto

(3) The Central Government, after taking into consideration the recommendations made by the Committee under this section, may, by notification in the Official Gazette, declare any Church to be a recognised Church for the purposes of this Act, and any such notification may also declare a group of Churches belonging to any organisation or denomination to be recognised Churches

8 Grant of licences to Ministers of Church to solemnize marriages — The State Government may, by notification in the Official Gazette, grant licences to Ministers of Church to solemnize marriages within the whole or any part of the State

9 Marriage Registrars in India —(1) The State Government may, by notification in the Official Gazette, appoint any person to be a Marriage Registrar for any district

(2) Where there are more Marriage Registrars than one in any district, the State Government shall appoint one of them to be the Senior Marriage Registrar

(3) Where there is only one Marriage Registrar in a district, and such Registrar is absent from the district or is ill or his office is temporarily vacant, any person authorised in this behalf by the State Government, by general or special order, shall act as, and be, the Marriage Registrar of the district during such absence, illness or temporary vacancy

10 Marriage Registrars outside India —For the purposes of this Act in its application to Christians domiciled in India who are

outside India, the Central Government may, by notification in the Official Gazette,—

(*a*) in the case of the State of Jammu and Kashmir, appoint such officers of the Central Government as it may think fit to be the Marriage Registrars for the State or any part thereof, and

(*b*) in the case of any other country, place or area appoint such diplomatic or consular officers as it may think fit to be the Marriage Registrars for the country, place or area

B —*Marriages before Ministers of recognised Churches*

11 Solemnization of marriages by Ministers of recognised Churches —(1) Marriages may be solemnized under this Act by any Minister of a recognized Church according to the rules of the Church of which he is a Minister and in the presence of at least two witnesses

(2) No such marriage shall be solemnized—

(*a*) if the Minister has reason to believe that the solemnization of the intended marriage would be contrary to the provisions of section 4 , or

(*b*) if any other lawful impediment be shown to the satisfaction of the Minister why such marriage should not be solemnized , or

(*c*) unless a solemn declaration has been made before the Minister in the form specified in the Fourth Schedule—

(i) by the bridegroom, and

(ii) by the bride, or, if she is a minor for whose marriage the consent of the guardian is required under this Act, by the guardian on behalf of the bride

C —*Marriages before licensed Ministers and Marriage Registrars*

12 Notice of intended marriage to licensed Ministers, etc , and Marriage Notice Book —(1) When a marriage is intended to be solemnized by a licensed Minister or by or in the presence of a

Marriage Registrar, the parties to the marriage shall give notice thereof in writing in the form specified in the Second Schedule—

(*a*) to the licensed Minister whom they desire to solemnize the marriage, or

(*b*) to the Marriage Registrar of the district in which at least one of the parties to the marriage has resided for a period of thirty days immediately preceding the date on which such notice is given

(2) Where the bride is a minor for whose marriage the consent of the guardian is required under this Act, notice to be given under sub-section (1) shall be signed on behalf of the bride by the guardian

(3) The licensed Minister or the Marriage Registrar, as the case may be, shall keep all notices given under sub-section (1) with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book

13 Procedure to be followed by licensed Minister on receipt of notice —Where a notice under section 12 is given to a licensed Minister, he shall proceed as follows —

(*a*) if the parties intending marriage desire it to be solemnized in a particular church building, and if the licensed Minister be entitled to officiate therein, he shall cause the notice to be published by affixing a copy thereof to some conspicuous part of such church building ,

(*b*) if he is not entitled to officiate as a Minister in such church building, he shall, notwithstanding anything contained in sub-section (3) of Section 12, at his option, either return the notice to the person who delivered it to him, or deliver it to some other licensed Minister entitled to officiate therein, who shall thereupon act as if the notice were given by the parties to him under section 12 ,

(*c*) if it is intended that the marriage shall be solemnized in a private building, the licensed Minister, on receiving the notice under section 12, shall forward a copy thereof to the Marriage Registrar of the district, who shall cause it to be published by affixing it to some conspicuous place in his own office ,

(*d*) if the bride intending marriage is a minor, the licensed Minister, on receiving the notice under section 12 shall, unless within twenty-four hours after its receipt he returns the same under clause (*b*), send by post or otherwise a copy of such notice to the Marriage Registrar of the district, or, if there be more than one Marriage Registrar of the district, to the Senior Marriage Registrar, and the Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such copy, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district, who shall likewise publish the same in the manner above directed

14 Procedure to be followed by Marriage Registrars on receipt of notice —Where the notice under section 12 is given to a Marriage Registrar, he shall proceed as follows —

(*a*) the Marriage Registrar shall cause the notice to be published by affixing a copy thereof to some conspicuous place in his own office ,

(*b*) if the bride is a minor, the Marriage Registrar shall, within twenty-four hours after receiving the notice under section 12, send, by post or otherwise, a copy of the notice to each of the other Marriage Registrars, if any, in the same district, who shall affix the copy to some conspicuous place in his own office ,

(*c*) if either of the parties intending marriage is not permanently residing within the local limits of the district of the Marriage Registrar, the Marriage Registrar shall also cause a copy of such notice to be transmitted to the Marriage Registrar of the district within whose limits such party is permanently residing and that Marriage Registrar shall thereupon cause a copy thereof to be affixed to some conspicuous place in his own office

15 Issue of certificate of notice —(1) Any licensed Minister or Marriage Registrar consenting or intending to solemnize any marriage under this Act shall, on being required so to do by or on behalf of either of the persons by whom the notice was given, issue under his hand a certificate of notice in the form specified in the Third Schedule

(2) No such certificate shall be issued—

(*a*) until the expiration of seven days from the date of publication of the notice or where the bride is a minor, until the expiration of twenty-one days from the said date, and

(*b*) unless a solemn declaration has been made before the licensed Minister or the Marriage Registrar, as the case may be, in the form specified in the Fourth Schedule—

(*i*) by the bridegroom, and

(*ii*) by the bride, or, if she is a minor for whose marriage the consent of the guardian is required under this Act, by the guardian on behalf of the bride

16 Objection to certificate —(1) Any person may, before the expiration of seven days from the date on which any notice has been published under section 13 or section 14, make an objection in writing to the marriage on the ground that it would contravene one or more of the conditions specified in section 4

(2) If an objection is made under sub-section (1), the licensed Minister or the Marriage Registrar shall not issue the certificate under section 15 unless he has inquired into the matter of the objection and is satisfied that it ought not to prevent the issue of the certificate or the objection is withdrawn by the person making it

(3) The licensed Minister or the Marriage Registrar shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision

17 Application to district court against decision on objection — (1) If the licensed Minister or the Marriage Registrar fails to arrive at a decision on an objection to an intended marriage within the period specified in sub-section (3) of section 16, or upholds such an objection and refuses to issue the certificate of notice of marriage, either party to the intended marriage may, within a period of twenty-one days from the date of such refusal, apply by petition to the district court

(2) The district court may examine the allegations of the petition in a summary manner, and shall decide the matter after giving a reasonable opportunity to the parties to be heard

(3) The decision of the district court on such petition shall be final, and the licensed Minister or the Marriage Registrar shall act in conformity with the decision

18 Procedure on receipt of objection by Marriage Registrar abroad —Where an objection is made under section 16 to a Marriage Registrar outside India in respect of an intended marriage outside India, and the Marriage Registrar, after making such inquiry into the matter as he thinks fit, entertains a doubt in respect thereof, he shall not solemnize the marriage but shall transmit the record to the Central Government with such statement respecting the matter as he thinks fit to make, and the Central Government, after making such inquiry into the matter and after obtaining such advice as it thinks fit, shall give its decision thereon in writing to the Marriage Registrar, who shall act in conformity with the decision of the Central Government

19 Certificate not to be issued and marriage not to be solemnized in certain cases —No licensed Minister or Marriage Registrar shall issue a certificate of notice in respect of any marriage or solemnize any marriage under this Act—

(*a*) if he has reason to believe that the solemnization of the intended marriage would be contrary to the provisions of section 4 , or

(*b*) if any other lawful impediment be shown to his satisfaction why such certificate should not be issued or such marriage should not be solemnized

20 Solemnization of marriage by licensed Minister —After the issue of the certificate of notice by the licensed Minister, the marriage may be solemnized between the persons therein described by the licensed Minister according to such form or ceremony as obtains in the Church to which the licensed Minister belongs and in the presence of at least two witnesses

21 Solemnization of marriage by Marriage Registrar —(1) After the issue of the certificate of notice by the Marriage Registrar, the marriage may be solemnized between the persons therein described by or in the presence of the Marriage Registrar according to such form or ceremony as the parties think fit to adopt and in the presence of at least two witnesses

Provided that the marriage shall not be complete and binding on the parties unless each party says to the other in the presence of the Marriage Registrar and the witnesses and in any language understood by the parties—

"I (A B) take thee (C D) to be my lawful wife (or husband)".

(2) The marriage may be solemnized—

(*a*) at the office of the Marriage Registrar, or

(*b*) at such other place in his district and within a reasonable distance from his office, as the parties may desire, and upon such conditions and the payment of such additional fees as may be prescribed

22 Certificate void if marriage not solemnized within three months —If a marriage is not solemnized within three months after the date of the certificate issued by the licensed Minister or the Marriage Registrar under section 15, such certificate and all proceedings, if any, thereon shall be void, and no person shall proceed to solemnize the said marriage until a new notice has been given and the certificate thereof issued in the manner provided in this Chapter

D —*Registration of marriages*

23 Certificate of marriage and registration —(1) When the marriage has been solemnized, the Minister of a recognised Church or the licensed Minister or the Marriage Registrar, as the case may be, shall enter a certificate thereof in the form specified in the Fifth Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book, and such certificate shall be signed by the parties to the marriage and the witnesses

(2) On a certificate being entered in the Marriage Certificate Book by the Minister of a recognised Church or the licensed Minister or the Marriage Registrar, the certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized

(3) Every Minister of a recognised Church, licensed Minister or Marriage Registrar in a State shall send to the Registrar-General of that State, at such intervals and in such form as may be prescribed, a true copy of all entries made by him in the Marriage Certificate Book since the last of such intervals

CHAPTER IV

Restitution of conjugal rights

24 Restitution —(1) When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the other party may apply by petition to the district court for restitution of conjugal rights.

(2) Nothing shall be pleaded in answer to such petition which would not be a ground for judicial separation or for nullity of marriage or for divorce

(3) The court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why a decree of restitution of conjugal rights should not be granted, may decree restitution of conjugal rights accordingly

CHAPTER V

Judicial separation

25 Judicial separation —Either party to a marriage, whether solemnized before or after the commencement of this Act, may present a petition praying for a decree for judical separation on any of the grounds specified in section 30

26 Effect of judicial separation on duty to cohabit —(1) Where a decree for judicial separation has been passed, it shall no longer be obligatory for the petitioner to cohabit with the respondent

(2) The court may, on the application by petition of either party and on being satisfied of the truth of the statements made in such petition, rescind the decree where the parties have expressed a desire to come together and to resume cohabitation or where for any other reason the court considers it just and reasonable to rescind the decree

CHAPTER VI

NULLITY OF MARRIAGE

27 Void Marriages —Any marriage solemnized, whether before or after the commencement of this Act, shall be *null* and *void* and may, on a petition presented for the purpose, be so declared by a decree of nullity, if it contravenes the condition specified in clause (*i*) or clause (*ii*) of section 4

28 Voidable Marriages —(1) Any marriage solemnized, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely —

(*a*) that the marriage is in contravention of the condition specified in clause (*iii*) of section 4 , or

(*b*) that the respondent was impotent at the time of the marriage and continued to be so till the institution of the proceeding , or

(*c*) that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner is required under clause (*v*) of section 4, the consent of such guardian, was obtained by force or fraud , or

(*d*) that the respondent was at the time of the marriage pregnant by some person other than the petitioner

(2) Any marriage solemnized after the commencement of this Act shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely —

(*a*) that the marriage is in contravention of the condition specified in clause (*iv*) of section 4 , or

(*b*) that the marriage of the petitioner, being the wife, is in contravention of the condition specified in clause (*v*) of section 4

(3) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage--

(*a*) on the ground specified in clause (*c*) of sub-section (1) shall be entertained, if—

(i) the petition is presented more than one year after the force had ceased to operate or, as the case may be, the fraud had been discovered , or

(ii) the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be, the fraud had been discovered ,

(*b*) on the ground specified in clause (*d*) of sub-section (1) shall be entertained, unless the court is satisfied—

(i) that the petitioner was at the time of the marriage ignorant of the facts alleged ,

(ii) that the proceedings have been instituted, in the case of a marriage solemnized before the commencement of this Act, within one year of such commencement and, in the case of a marriage solemnized after such commencement, within one year from the date of the marriage , and

(iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the grounds for a decree

(4) Notwithstanding anything contained in sub-section (2), no petition for annulling a marriage under that sub-section shall be entertained if the petition is presented more than one year after the petitioner has completed the age of eighteen years

29 Legitimacy of children of certain void and voidable marriages

(1) Where a marriage is null and void under section 27 by reason of the contravention of the condition specified in clause (i) or clause (ii) of section 4, any child begotten or conceived before the marriage

is declared to be null and void, who would have been the legitimate child of the parties to the marriage if the marriage had been valid, shall be deemed to be their legitimate child notwithstanding that the marriage is null and void

(2) Where a marriage is annulled by a decree of nullity under section 28, any child begotten or conceived before the decree is made who would have been the legitimate child of the parties to the marriage if the marriage had been dissolved instead of having been annulled by a decree of nullity, shall be deemed to be their legitimate child notwithstanding the decree of nullity

(3) Nothing contained in this section shall be construed as conferring upon any child of a marriage which is void or which is annulled by a decree of nullity any rights in or to the property of any person other than the parents in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents

CHAPTER VII

DIVORCE

A —*Grounds of divorce*

30 Grounds of divorce — (1) Any marriage, solemnized whether before or after the commencement of this Act, may, on a petition presented either by the husband or the wife, be dissolved by a decree of divorce on the ground that the respondent—

(i) has, since the solemanization of the marriage, committed adultery , or

(ii) has ceased to be a Christian by conversion to another religion , or

(iii) has been incurably of unsound mind for a continuous period of not less than three years immediately preceding the presentation of the petition , or

(iv) has, for a period of not less than three years immediately preceding the presentation of the petition, been suffering from a virulent and incurable form of leprosy , or

(v) has, for a period of not less than three years immediately preceding the presentation of the petition, been suffering from venereal disease in a communicable form , or

(vi) has not been heard of as being alive for a period or seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive , or

(vii) has wilfully refused to consummate the marriage, and the marriage has not therefore been consummated ,

(viii) has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree against the respondent , or

(ix) has deserted the petitioner for a period of at least three years immediately preceding the presentation of the petition , or

(x) has, since the solemnization of the marriage, treated the petitioner with cruelty

(2) A wife may also present a petition for the dissolution of her marriage by a decree of divorce on the ground that the husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality

31 Divorce after decree for judicial separation —Where in respect of any marriage, solemnized whether before or after the commencement of this Act, a decree for judicial separation has been passed, and there has been no resumption of cohabitation as between the parties to the marriage for a period of two years or upwards after the passing of the decree, either party may, by an application in the proceeding in which the decree was passed, pray for a dissolution of the marriage by a decree of divorce , and the court may, on being satisfied of the truth of the statements made in such application, pass a decree accordingly

32 No petition for divorce to be presented within three years of marriage —(1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce under section 30, unless at the date of the presentation of the petition three years have elapsed since the date of the marriage

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Provided that the court may grant leave to present a petition before the said three years have elapsed if the court thinks fit to do so on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but any such leave may, in the interests of justice, be revoked by the court at any time before a *decree nisi* of divorce is passed, and where the leave is so revoked, the court may dismiss the petition without prejudice to any petition which may be brought after the expiration of the said three years upon the same or substantially the same facts as those alleged in support of the petition so dismissed

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of three years from the date of the marriage, the court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years

B —*Re-marriage after divorce*

33 Re-marriage of divorced persons —Where a decree of divorce has been made absolute under section 42 or a decree of divorce has been passed under section 31, and the time for appealing has expired without any appeal having been presented or an appeal has been presented but has been dismissed and the decree of dismissal has become final, but not sooner, either party to the marriage may marry again

CHAPTER VIII

Jurisdiction and procedure

34 Relief to be given to Christians only —Nothing contained in this Act shall authorise any court to grant any relief under Chapters IV to VII, except where—

(*a*) both the parties to the marriage are Christians at the time of the presentation of the petition , or

(*b*) both the parties to the marriage were Christians at the time of the marriage, and at least one of the parties is a Christian at the time of the presentation of the petition, or

(*c*) the marriage was solemnized under any enactment repealed hereby, and at least one of the parties is a Christian at the time of the presentation of the petition

35 Jurisdiction of Indian courts —Nothing contained in this Act shall authorise any court—

(*a*) to make any decree of dissolution of marriage, except where—

(i) the parties to the marriage are domiciled in India at the time of the presentation of the petition , or

(ii) the petitioner, being the wife, was domiciled in India immediately before the marriage and has been residing in India for a period of not less than three years immediately preceding the presentation of the petition,

(*b*) to make any decree of nullity of marriage, except where—

(i) the parties to the marriage are domiciled in India at the time of the presentation of the petition , or

(ii) the marriage was solemnized under this Act or under any enactment repealed hereby, and the petitioner is either domiciled or residing in India at the time of the presentation of the petition ,

(*c*) to grant any other relief under Chapters IV to VII, except where the petitioner is residing in India at the time of the presentation of the petition

36 Court to which petition to be made —(1) Every petition under sub-section (5) of section 5 shall be presented to the district court within the local limits of whose ordinary civil jurisdiction the bride resides

(2) Every petition under section 17 shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction the licensed Minister discharges his functions or the office of the Marriage Registrar is situate, as the case may be

(3) Every petition under Chapters IV to VII shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction—

(*a*) the respondent is residing at the time of the presentation of the petition, or

(*b*) the marriage was solemnized, or

(*c*) the husband and wife last resided together, or

(*d*) the petitioner is residing at the time of the presentation of the petition, provided the respondent is, at that time, residing outside India

37 Contents and verification of petitions —(1) Every petition presented under Chapters IV to VII shall state as distinctly as the nature of the case permits the facts on which the claim to relief is founded and shall also state that there is no collusion between the petitioner and the other party to the marriage

(2) The statements contained in every petition under Chapters IV to VII shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints and may, at the hearing, be referred to as evidence

38 Application of Code of Civil Procedure —Subject to the other provisions contained in this Act and to such rules as the High Court may make in this behalf, all proceedings under this Act shall be regulated, as far as may be, by the Code of Civil Procedure, 1908 (5 of 1908)

39 Duty of Court before passing decree —(1) In any proceeding under Chapters IV to VII, whether defended or not, if the court is satisfied that—

(*a*) any of the grounds for granting relief exists and the petitioner is not in any way taking advantage of his or her own wrong or disability for the purpose of such relief, and

(*b*) where the ground of the petition is adultery, the petitioner has not in any manner been accessory to or connived at or condoned the adultery, or where the ground of the petition is cruelty, the petitioner has not in any manner condoned the cruelty, and

(*c*) the petition is not presented or prosecuted in collusion with the respondent, and

(*d*) there has not been any unnecessary or improper delay in instituting the proceeding, and

(*e*) there is no other legal ground why relief should not be granted,

then, and in such a case, but not otherwise, the court shall decree such relief accordingly

(2) Before proceeding to grant any relief under Chapters IV to VII, it shall be the duty of the court in the first instance, in every case where it is possible so to do consistently with the nature and circumstances of the case, to make every endeavour to bring about a reconciliation between the parties

(3) For the purpose of aiding the court in bringing about such reconciliation, the court may, if the parties so desire or if it thinks it just and proper so to do, adjourn the proceeding and refer the matter to any person named by the parties in this behalf or to any person nominated by the court if the parties fail to name any person, with directions to report to the court as to whether a reconciliation can be, and has been, effected, and shall, in disposing of the proceeding, have due regard to the report

40 Adulterer or adulteress to be a co-respondent—(1) On a petition for divorce or judicial separation presented on the ground of adultery, the petitioner shall make the alleged adulterer or adulteress a co-respondent, unless the petitioner is excused by the court from so doing on any of the following grounds namely —

(*a*) that the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed ,

(*b*) that the name of the alleged adulterer or adulteress is unknown to the petitioner although the petitioner has made due efforts to discover it ,

(*c*) that the alleged adulterer or adulteress is dead ,

(*d*) any other ground which the court may regard as sufficient in the circumstances of the case

(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to the answer of a respondent praying for divorce or judicial separation on the ground of adultery, as they apply in relation to a petition for divorce or judicial separation presented on that ground

41 Relief to respondent in case of opposition to petition for divorce on certain grounds —If, in any proceeding for divorce or judicial separation, the respondent opposes the relief sought on the ground of the petitioner's adultery, cruelty or desertion, the court may give the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief

42 *Decree nisi* **for divorce** —(1) Every decree for divorce under section 30 shall, in the first instance, be a *decree nisi*, not to be made absolute until after the expiration of six months from the pronouncing thereof, unless the court fixes a shorter time

(2) After the pronouncing of the *decree nisi* and before the decree is made absolute, any person may, by an application made in accordance with such rules as may be made by the High Court in that behalf, show cause why the decree should not be made absolute by reason of the decree having been obtained by collusion or by reason of material facts not having been brought before the court, and in any such case the court may make the decree absolute, reverse the *decree nisi*, require further inquiry or otherwise deal with the case as the court thinks fit

(3) Where a *decree nisi* has been obtained and no application for the decree to be made absolute has been made within six months from the pronouncement of the *decree nisi* by the party who obtained the decree, then, at any time within three months from the expiration of the said six months, the party against whom the *decree nisi* has been granted shall be at liberty to apply to the court and the court, on such application, may make the decree absolute, reverse the *decree nisi*, require further inquiry or otherwise deal with the case as the court thinks fit

43 Damages from adulterer or adulteress —(1) A husband or wife may, on a petition for divorce or for judicial separation, claim damages from any person on the ground of adultery with the wife or husband of the petitioner

(2) The court may direct in what manner the damages recovered on any such petition are to be paid or applied, and may direct the whole or any part of the damages to be settled for the

benefit of the children, if any, of the marriage, or as a provision for the maintenance of the wife, or husband

44 Maintenance *pendente lite* **and expenses of proceedings** — Where in any proceeding under Chapters IV to VII it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum, as, having regard to the petitioner's own income and the income of the respondent, may seem to the court to be reasonable

45 Permanent alimony and maintenance —(1) Any court exercising jurisdiction under Chapters IV to VII may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall, while the applicant remains unmarried, pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant and the conduct of the parties, may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just

(3) If the court is satisfied that the party in whose favour an order has been made under this section has remarried, or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, it shall rescind the order

46 Disposal of property —(1) In any proceeding under Chapter VI or Chapter VII, the court may make such provisions in the decree as it deems just and proper with respect to any property

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presented, at or about the time of the marriage, which may belong jointly to both the husband and the wife

(2) In any case in which the court pronounces a decree for divorce or nullity of marriage, the court may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or any part of the property so settled (whether the settlement is for the benefit of the children of the marriage or of the parties to the marriage or both), as the court thinks fit

(3) The court shall not make any order under sub-section (2) for the benefit of the parents or either of them at the expense of the children

47 Custody of children —In any proceeding under Chapters IV to VII, the court may, from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, consistently with their wishes, wherever possible, and may, after the decree, upon application by petition for the purpose, make, from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree were still pending, and the court may also from time to time revoke, suspend or vary any such orders and provisions previously made

48 Proceedings may be *in camera* and may not be published — A proceeding under this Act shall be conducted *in camera* if either party so desires or if the court so thinks fit to do, and it shall not be lawful for any person to print or publish any matter in relation to such proceeding except with the previous permission of the court

49 Appeals from decrees and orders —All decrees and orders made by the court in any proceeding under this Act shall be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction

Provided that there shall be no appeal on the subject of costs only

50 Enforcement of decrees and orders —All decrees and orders made by the court in any proceeding under this Act shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced

CHAPTER IX

PENALTIES

51 Punishment of bigamy —Every person whose marriage is solemnized under this Act and who, during the lifetime of his or her wife or husband, contracts any other marriage shall be subject to the penalties provided in section 494 and section 495 of the Indian Penal Code (45 of 1860) for the offence of marrying again during the lifetime of the husband or wife, and the marriage so contracted shall be void

52 Punishment for contravention of certain other conditions for marriage —Every person who procures a marriage of himself or herself to be solemnized under this Act in contravention of the conditions specified in clauses (*iii*), (*iv*) and (*v*) of section 4 shall be punishable—

(*a*) in the case of a contravention of the condition specified in clause (*iii*) of section 4, with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both

(*b*) in the case of a contravention of the condition specified in clause (*iv*) of section 4, with simple imprisonment which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both, and

(*c*) in the case of a contravention of the condition specified in clause (*v*) of section 4, with fine which may extend to one thousand rupees

53 Penalty for false oath, declaration, notice or certificate for procuring marriage —Whoever, for the purpose of procuring a marriage or licence of marriage, intentionally,—

(*a*) where an oath or declaration is required by this Act, or by any Church according to the rules of which a marriage is intended to be solemnized, makes a false oath or declaration, or

(*b*) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine

54 False personation by person objecting to marriage —Whoever makes an objection to the issue, by a licensed Minister or a Marriage Registrar, of a certificate, by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed to be guilty of the offence described in section 205 of the Indian Penal Code (45 of 1860), and shall be punishable accordingly

55 Solemnizing marriage without due authority —Whoever, not being authorised by section 6 to solemnize marriages, solemnizes or professes to solemnize under this Act a marriage between persons who are Christians, shall be punishable with imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to two thousand rupees

56 Penalty for not deciding objections within prescribed period or refusal to solemnize marriage —(1) Whoever, being a licensed Minister or a Marriage Registrar, in contravention of the provisions of sub-section (3) of section 16, wilfully or without just cause, takes more than thirty days from the date of any objection to an intended marriage for the purpose of inquiring into the matter of the objection and arriving at a decision, shall be punishable with fine which may extend to five hundred rupees

(2) Whoever, being a licensed Minister or a Marriage Registrar, refuses, without just cause, to solemnize a marriage under this Act, shall be punishable with simple imprisonment for a term which may

extend to one year, or with fine which may extend to five hundred rupees, or with both

57 Penalty for wrongful action of Marriage Registrar or Minister, etc —Whoever, being authorized under this Act to solemnize a marriage, knowingly and wilfully—

(*a*) solemnizes such marriage—

(i) without publishing a notice regarding such marriage as required by any provision of this Act, or

(ii) in contravention of any other provision contained in this Act, or

(*b*) issues any certificate in contravention of any provision contained in this Act,

shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both

58 Destroying or falsifying Marriage Certificate Books —Whoever, by himself or another, wilfully destroys or injures any Marriage Certificate Book, or any part thereof or any authenticated extract therefrom, or falsely makes or counterfeits any part of such book, or wilfully inserts any false entry in any such book or authenticated extract, shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine which may extend to two thousand rupees

59 Penalty for publishing proceedings held *in camera* —Any person who prints or publishes any matter in contravention of the provisions contained in section 48 shall be punishable with fine which may extend to one thousand rupees

60 Limitation for prosecution —No prosecution for any offence punishable under section 52, section 53, section 54, section 55, section 56, section 57, section 58 or section 59 shall be instituted after the expiry of two years from the date on which the offence is committed

CHAPTER X

MISCELLANEOUS

61 Liability for frivolous objections —(1) Where any person makes an objection against the issue of any certificate of notice of marriage and the Marriage Registrar under section 16, or the district court under sub-section (4) of section 5 or under section 17, declares that the objection is not reasonable and has not been made in good faith, the Marriage Registrar or the district court, as the case may be, may, after giving such person a reasonable opportunity of being heard, award, by way of compensation, costs, not exceeding one thousand rupees, to the parties to the intended marriage

(2) Any person aggrieved by an order of the Marriage Registrar or the district court under sub-section (1) may, within a period of thirty days from the date of the order, appeal to the district court or the High Court, as the case may be

(3) Subject to any order passed on appeal under sub-section (2), the order of the Marriage Registrar or the district court under sub-section (1) shall be final

(4) Any order of costs made under sub-section (1) may be executed in the same manner as a decree passed by the district court within the local limits of whose jurisdiction the office of the Marriage Registrar is situate

62 Savings regarding irregularities —Whenever any marriage has been solemnized between two Christians under this Act in accordance with the provisions of this Act, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely —

(i) any statement made in regard to the dwelling-place of the persons married ,

(ii) the notice of the marriage ,

(iii) the certificate of the notice of the marriage or translation thereof ,

(iv) the registration of the marriage

63 Correction of errors —(1) Any person authorised to solemnize a marriage under this Act, who discovers any error in the form or substance of any entry in the Marriage Certificate Book may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other witnesses, correct the error by entry in the margin, without any alteration of the original entry and shall sign the marginal entry and add thereto the date of such correction

(2) Every correction made under this section shall be attested by the witnesses in whose presence it was made

(3) Where a copy of any entry has already been sent under sub-section (3) of section 23 to the Registrar-General, such person shall make and send in like manner a separate certificate of the original erroneous entry and of the marginal corrections therein made

64 Solemnization of marriages by Ministers of Church in places sanctioned by custom or usage —Subject to the other provisions contained in this Act, a marriage under this Act may be solemnized by a Minister of a recognized Church or a licensed Minister—

(*a*) in a church building, or

(*b*) in any other place agreed upon between the parties to the marriage, if solemnization at such place is in accordance with the custom or usage applicable to the community to which the parties to the marriage belong

65 Marriage Registrars to be deemed to be public servants — Every Marriage Registrar shall be deemed to be a public servant within the meaning of section 21 (45 of 1960), of the Indian Penal Code

66 Inspection of Marriage Notice Book —The Marriage Notice Book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same

67 Inspection of Marriage Certificate Book —(1) The Marriage Certificate Book kept under this Act shall at all reasonable times

be open for inspection and shall be admissible as evidence of the statements therein contained

(2) Certified extracts from the Marriage Certificate Book shall, on application, be given by the person who solemnized the marriage or other person having the custody for the time being of the Marriage Certificate Book, to any person who applies for the same

(3) Inspection of the Marriage Certificate Book under sub-section (1) and the grant of certified extracts therefrom under sub-section (2) shall be—

(*a*) without fee, if applied for by the parties to the marriage at or about the time of the marriage,

(*b*) subject to the payment of the prescribed fees, in other cases

68 Certified copy to be evidence —Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Certificate Book, of an entry of a marriage in such Book, shall be received in evidence without production or proof of the orginal

69 Language of notices and declarations —(1) Any notice to be given or declaration to be made by any person in respect of an intended marriage under this Act may be given or made in a language commonly in use in the State or the part of State in which the notice is given or declaration made , or in English

(2) Every person solemnizing a marriage under this Act shall satisfy himself that the parties to the marriage have understood the contents of the notice given and the declaration made by each of them, and (where a certificate of notice of marriage is required to be issued under this Act) of the certificate of notice of marriage issued for the marriage

70 Ministers of recognised Churches not compelled to solemnize marriages contrary to the rules of the Church —No Minister of a recognised Church shall be compelled to solemnize any marriage, the solemnization of which would be contrary to the rules of the Church of which he is a Minister

71 Powers of Marriage Registrars in respect of inquiries —For the purpose of any inquiry under this Act, the Marriage Registrar shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely —

(*a*) summoning and enforcing the attendance of witnesses and examining them on oath ,

(*b*) discovery and inspection ,

(*c*) compelling the production of documents ,

(*d*) reception of evidence on affidavits , and

(*e*) issuing commissions for the examination of witnesses, and any proceeding before the Marriage Registrar shall be deemed to be a judicial proceeding within the meaning of section 193 (45 of 1860), of the Indian Penal Code

Explanation —For the purpose of enforcing the attendance of any person to give evidence, the local limits of the jurisdiction of the Marriage Registrar shall be the local limits of his district

72 Power to make rules —(1) The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the duties and powers of Marriage Registrars and the areas in which they may exercise jurisdiction ,

(*b*) the manner in which a Marriage Registrar may hold inquiries under this Act, and the procedure therefor ,

(*c*) the form and manner in which any books required by or under this Act shall be maintained ,

(*d*) the fees that may be levied for the performance of any duty imposed upon any person under this Act ,

(*e*) the conditions under which licences to solemnize marriages may be issued by the State Government, and the circumstances under which may be revoked ,

(*f*) the surrender of such licences on the expiry thereof by revocation or otherwise ;

(*g*) the procedure to be followed by the Committee constituted under section 7 ,

(*h*) the form in which, and the intervals within which, copies of entries in the Marriage Certificate Book shall be sent to the Registrar-General ,

(*i*) any other matter which may be, or requires to be, prescribed

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be , so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

73 Rules by the High Court —The High Court may, by notification in the Official Gazette, make such rules consistent with the provisions contained in this Act as it may consider expedient for the purpose of regulating the procedure to be followed in petitions under sub-section (5) of section 5 or under section 17, and for the purpose of carrying into effect the provisions of Chapters IV to VII

74 Savings regarding marriages solemnized before the Act —A marriage solemnized before the commencement of this Act, which is otherwise valid, shall not be deemed to be invalid merely by reason of any provision contained in this Act

75 Savings for other marriages —Nothing in this Act shall affect the provisions of the Special Marriage Act, 1954 (43 of 1954), or apply to any marriage solemnized under that Act

76 Repeal —(1) The Indian Divorce Act, 1869 (4 of 1869), the Indian Christian Marriage Act, 1872 (15 of 1872), the Indian and Colonial Divorce Jurisdiction Act, 1926 (16 and 17, Geo. 5,c.) the Indian and Colonial Divorce Jurisdiction Act, 1940 (40 3 & Geo 6,c) the Indian Divorce Act, 1945 (35 9 & 10 Geo. 6,c.5) and any enactment corresponding to the Indian Christian Marriage Act, 1872, in force in the territories which, immediately before the first day of November, 1956, were comprised in the States of Travancore-Cochin and Manipur, are hereby repealed

(2) Notwithstanding such repeal—

(*a*) all marriages duly solemnized under the Indian Christian Marriage Act, 1872 (15 of 1872), or any such corresponding enactment, shall be deemed to have been solemnized under this Act ,

(*b*) all suits and proceedings in causes and matters matrimonial which, when this Act comes into force, are pending in any court under the Indian Divorce Act, 1869 (4 of 1869), or under the Indian and Colonial Divorce Jurisdiction Act, 1926 (16 and 17 Geo 5, c) or under the Indian and Colonial Divorce Jurisdiction Act, 1940 (40. 3 & 4 Geo 6 c) or under the Indian Christian Marriage Act, 1872, (35 15 of 1872) or any such corresponding enactment, shall be dealt with and decided by such court as if this Act had not been passed

(3) The provisions of sub-section (2) shall be without prejudice to the provisions contained in section 6 of the General Clauses Act, 1897 (10 of 1897), which shall also apply to the repeal of the Indian and Colonial Divorce Jurisdiction Act, 1926 (16 & 17 Geo 5, c) the Indian and Colonial Divorce Jurisdiction Act, 1940, (40 3 & 4 Geo 6, c), the Indian Divorce Act, 1945 (35 9 and 10 Geo 6 c 5); and any such corresponding enactment

THE FIRST SCHEDULE

[*See* section 2(*m*)]

PROHIBITED RELATIONSHIP

1 Mother
2 Father's widow (step-mother)
3 Mother's mother
4 Mother's father's widow (step grand-mother)
5 Father's mother
6 Father's father's widow (step grand-mother)
7 Daughter
8 Son's widow
9 Daughter's daughter
10 Daughter's son's widow
11 Son's daughter
12 Son's son's widow
13. Sister.
14 Wife's daughter (step-daughter)
15 Wife's mother
16 Wife's son's daughter (step-son's daughter)
17 Wife's daughter's daughter (step-daughter's daughter)
18 Wife's father's mother
19 Wife's mother's mother

Explanation —For the purposes of this Part, the expression "widow" includes a divorced wife

PART II

20 Father
21 Mother's husband (step-father)
22 Father's father
23 Father's mother's husband (step grand-father)
24 Mother's father
25 Mother's mother's husband (step grand-father)
26 Son
27 Daughter's husband
28 Son's son
29 Son's daughter's husband
30 Daughter's son
31 Daughter's daughter's husband
32 Brother
33 Husband's father
34 Husband's son (step-son)
35 Husband's son's son (step-son's son)
36 Husband's daughter's son (step-daughter's son)
37 Husband's father's father
38 Husband's mother's father

Explanation —For the purposes of this Part, the expression "husband" includes a divorced husband

THE SECOND SCHEDULE

[*See* section 12 (1)]

FORM OF NOTICE OF INTENDED MARRIAGE

To

The [Licensed Minister]*
[Marriage Registrar]*

We hereby give you notice that a marriage under the Christian Marriage and Matrimonial Causes Act, 1962, is intended to be solemnized between us within three calendar months from the date hereof

Name	Condition	Occupation	Date of birth	Dwelling place	Permanent dwelling place, if present dwelling place not permanent	Length of residence	Church, chapel or place of worship in which marriage is to be solemnized (if the marriage is to to be so solemnized)
A B	Unmarried Widower Divorcee						
C D	Unmarried Widow Divorcee						

Witness our hands, this
day of 19

(Sd) A B

(Sd.) C D

NOTE —In the case of a minor bride for whose marriage the consent of her guardian is required, the guardian should sign on her behalf

*Strike off what is inapplicable

THE THIRD SCHEDULE

[*See* section 15 (1)]

FORM OF CERTIFICATE OF NOTICE

I, do hereby certify that, on the day of , notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of both the parties, that is to say,—

Name	Condition	Occupation	Date of birth	Dwelling place	Permanent dwelling place, if present dwelling place not permanent	Length of residence	Church, chapel or place of worship in which marriage is to be solemnized (if the marriage is to so be solemnized)
A B	Unmarried / Widower / Divorcee						
C D	Unmarried / Widow / Divorcee						

and that the declaration required by section* of the Christian Marriage and Matrimonial Causes Act, 1962, *has been duly made by the said

Date of notice entered

Date of certificate given

Witness my hand, this day of 19

(Sd)

This certificate will be void unless the marriage is solemnized on or before the day of 19

Licensed Minister†
Marriage Registrar†

*To be filled up

†Strike off what is inapplicable

THE FOURTH SCHEDULE

[*See* sections 11 (2) (*a*) and 15 (2) (*b*).]

DECLARATION TO BE MADE BY THE BRIDEGROOM

I, A B., hereby declare as follows —

1 I am at the present time unmarried (or a widower or a divorcee, as the case may be)
2. I have completed years of age
3 I am not related to C D (the bride) within the prohibited relationship
4 I am a Christian
5 I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine

(Sd) A B (the Bridegroom)

DECLARATION TO BE MADE BY THE BRIDE

I, C D , hereby declare as follows —

1 I am at the present time unmarried (or a widow or a divorcee, as the case may be)
2 I have completed years of age
3 I am not related to A B (the bridegroom within the prohibited relationship
4 I am a Christian
5 Consent of my guardian in marriage, Shri has been obtained to my proposed marriage with A B *
6 I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine

*Strike off if not applicable If in lieu of guardians consent, permission of the district court has been obtained, state so, giving full particulars relating thereto

(Sd) C D (the Bride)

NOTE —In the case of a minor bride for whose marriage the consent of her guardian is required, the guardian should sign on her behalf

Signed in our presence by the above-named A B and C D So far as we are aware there is no lawful impediment to the marriage

(Sd) G H. } *Two witnesses*
(Sd) I J }

(Countersigned) E F.
*Minister of a recognised Church**
*Licensed Minister**
*Marriage Registrar**

Dated the day of 19

*Strike off what is inapplicable

THE FIFTH SCHEDULE

[*See* section 23 (*1*)]

FORM OF CERTIFICATE OF MARRIAGE

I, E.F, hereby certify that on the day of . . 19 . .. A B and C D ** appeared before me and that the declaration required by section† . . of the Christian Marriage and Matrimonial Causes Act, 1962, was duly made, and that a marriage under that Act was solemnized between them in my presence and in the presence of two witnesses who have signed hereunder

---

**Herein give the particulars of the parties

†To be entered

(Sd) E F

Minister of a recognised Church
*Licensed Minister**
*Marriage Registrar**

(Sd) A B
Bridegroom

(Sd) C D.
Bride

(Sd) G H
(Sd) I J. } *Two witnesses*

Dated the day of 19

---

*Strike off what is inapplicable

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend and codify the law relating to marriage and matrimonial causes amongst Christians in India on the lines recommended by the Law Commission in its Fifteenth and Twenty-second Reports The Commission dealt with the subject in its Fifteenth Report and thereafter a Bill giving effect to the recommendations in that Report was circulated by the Commission for public opinion and the Twenty-second Report contains its final recommendations on the subject

2 The notes on clauses explain the salient provisions of the Bill

NEW DELHI,
The 15th June, 1962

ASOKE K SEN

Notes on clauses

Clause 1 —The territorial operation of the Act will secure that it applies to all marriages solemnized within India (except the State of Jammu and Kashmir) while in its extra-territorial operation it will also apply to Christians domiciled in India who are outside the said territories

Clause 1 (3) provides for section 7 coming into force at once so that, if it is necessary to do so, the requisite machinery may be set up in advance for the recognition of churches, the ministers of which would automatically be entitled to solemnize marriages

Clause 2 —The definition of "Church building" is new and has been included in order to avoid confusion between the church as denoting the organization and the church as denoting the place of worship

"desertion" —An intention on the part of the deserting spouse to forsake or abandon the other spouse is an essential ingredient of desertion and the definition of "desertion" contained in the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954, has been suitably revised in order to bring out all the ingredients of desertion more clearly Factual separation has been brought out by the words "withdrawal by a spouse from cohabitation with the other spouse"

"minor"—The definition of "minor" in the Christian Marriage Act, 1872, has been modified by substituting the age of 18 years for the age of 21 years in conformity with the general law The exception in the case of widowers and widows has been omitted since even windowers and widows, if minor, should be subject to the special provisions applicable to minors

"recognised Church."—Ministers of recognised churches would automatically be entitled to solemnize marriages, and this expression is defined to include the Churches specified in the existing Act, namely, the Church of Rome, the Church of India, Burma and Ceylon and the Church of Scotland and also to include any other church which may hereafter be recognised under clause 7

Clause 3 —In conformity with other similar laws on the subject of marriage the scope of the Bill is limited to cases where both the

parties are Christians Marriages solemnized under the Special Marriage Act, 1954, have necessarily to be excluded from the scope of this law It is not necessary to expressly provide that marriages solemnized otherwise than in accordance with the provisions of this Act shall be void

Clause 4 lays down the conditions for a valid Christian marriage It is to a large extent based on the corresponding provisions in the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954 The lists of prohibited relationships are, however, made as short as possible so that the need for dispensation from any extraneous source does not arise The necessary exception in favour of custom, as in the Hindu Marriage Act, 1955, has also been made Care has, however, been taken to ensure that no Minister of a recognised Church is required to solemnize a marriage which is contrary to the rules of his Church (Clause 70)

Clause 5 —This clause is intended to be a complete code relating to guardians in marriage Although based on the corresponding provision in the Hindu Marriage Act, 1955, it makes important departures therefrom The list of guardians is made as comprehensive as possible and the procedure for obtaining the consent of the district court, wherever necessary, is also laid down

Clauses 6, 7, 8 *and* 9 —Marriages under the new law can be solemnized in three modes, (1) by or before the Marriage Registrar (which is a civil marriage), (2) by ministers of recognized churches and (3) by ministers licensed by the State—the two latter being sacramental marriages Churches referred to in section 3 of the Christian Marriage Act 1872, namely, the Church of Rome, the Church of India Burma and Ceylon and the Church of Scotland will automatically become recognised churches under this law while the provision contained in this clause will enable new churches which are in the process of formation or have been formed in the mean time and which satisfy the prescribed conditions to obtain recognition A Committee of Christians appointed by the Central Government under clause 7 will recommend to the Central Government which churches should be recognised for the purpose Other ministers of church will be licensed under clause 8

Clause 10 —Since the new Act will apply to persons domiciled outside India, it is necessary to provide for the appointment of Marriage Registrars outside India

Clause 11 —Since the proposed conditions of marriage will apply to all marriages solemnized under the Act, sub-clause (2) seeks to impose a specific obligation on all persons solemnizing marriages under the Act to see that the conditions for marriage are fulfilled, that there is no lawful impediment to the marriage, and that the parties make a declaration to that effect

Clauses 12 to 22 —These clauses deal with the procedure to be followed by licensed Ministers and Marriage Registrars and are modelled on the provisions in that behalf contained in the existing Act and the Special Marriage Act, 1954 Wherever necessary, the time limits prescribed for some specific action to be taken has been enlarged In clause 20 it is provided that the licensed Minister in solemnizing marriages should follow the rules of the church to which he belongs instead of the matter being left to his choice as at present

Clause 23 —The provisions regarding registration of marriages which occupy 13 sections in the existing Act have been put here in a simplified and brief form A uniform procedure has been applied to all marriages under the Act This provision is modelled on the corresponding provision in the Special Marriage Act, 1954

Clause 24 —This clause reproduces the existing provision for restitution of conjugal rights in the Indian Divorce Act, 1869, with suitable changes in the light of similar provisions in the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954

Clause 25.—The reference to divorce *a mensa et thoro* has been omitted as unnecessary and the grounds for judicial separation are the same as the grounds for divorce As Roman Catholics do not recognise divorce and as there are considerable sections of Protestants who are also averse to divorce and as the legal systems based on the canonical law generally provide only for judicial separation, the Bill seeks to continue this relief although the grounds are the same as for divorce

Clause 26 —This clause follows similar provisions in the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954 Although clause 31 allows either party to a decree for judicial separation to

apply for divorce after the expiry of the prescribed period, this clause does not put the respondent on the same footing as the petitioner in a decree for judicial separation as regards the obligation to co-habit

The only justification for setting aside a decree for judicial separation would be a change in the circumstances Sub-clause (2) has been suitably modified for this purpose

Clause 27—deals with void marriages and follows section 11 of the Hindu Marriage Act, 1955, except for the omission of the words "on a petition presented by either party thereto" as a void marriage can be impugned by other parties also

Clause 28 deals with voidable marriages and is patterned on section 12 of the Hindu Marriage Act, 1955 Sub-clause (2), however, is new It provides that a marriage is voidable if the parties to the marriage are below age or if the guardian's consent for the marriage of the minor girl has not been obtained This provision will, however, apply only to marriages solemnized after this Bill becomes law It is also provided that no such marriage can be avoided after the expiry of one year from the date on which the petitioner has completed the age of 18 years.

Clause 29 —Section 21 of the Indian Divorce Act, 1869, is confined to two cases of nullity, namely, where the former spouse was living and insanity , and it is only in such cases that children may be regarded as legitimate in certain circumstances Clause 29 on the other hand is modelled on similar provisions in the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954, and provides for the children being legitimate in all cases irrespective of good faith of the parties, etc Such children are also given a right of succession in regard to the property of either parent

Clause 30 —The existing grounds for divorce have have been enlarged Incidentally, wilful, refusal to consummate a marriage should be treated as a fault arising after the marriage as is sough to be done in this clause, and not as a fault existing at the time of the marriage so as to make it voidable as section 25 of the Special Marriage Act, 1954, purports to do

Clause 31 is new A proceeding for judical separation is considered a waste of time by some persons while others hold the view

that it should be retained for the purpose of preserving the sanctity of marriage See also the notes under clause 25 While retaining the provision respecting judicial separation this clause, by way of compromise, provides that no separate proceeding need be initiated for divorce if parties to a decree for judicial separation have not come together for more than two years after the divorce A mere application in the same suit is sufficient and such an application may be made by either party to the marriage

Clause 32 follows similar provisions in the Special Marriage Act, 1954 and the Hindu Marriage Act, 1955, with some modifications It is now provided that leave granted may be revoked by the court in the interests of justice, while in the other Acts it can be revoked only in the case of misapprehension or concealment as to the nature of the case Further, instead of the complicated procedure provided in the other two Acts as to the order to be passed when leave is revoked, a simple provision is being made that the court will dismiss the petition without prejudice to any other petition which may be brought after the expiry of the three year period

Clause 33 —It is now provided that the parties to a decree for divorce may re-marry once the decree has become final There is no waiting period after the decree has become final as in the existing Act

Clause 34 —The existing provision in the Indian Divorce Act, 1869, authorises the court to grant relief under the Act where either the petitioner or the respondent professes the Christian religion at the time or the petition It is more logical in the new scheme of things to provide that the parties must have been Christians at the time of the marriage, or that the parties must have been Christians at the time of the marriage and at least one of the parties is a Christian at the time of the petition, or both the parties are Christians at the time of the petition and this is what clause 34 does The rights of persons married under the existing Act are however, protected

Clause 35 —While generally following the language of section 2 of the Indian Divorce Act 1869, this clause introduces a new provision under which a decree may also be passed in favour of a petitioner who, being the wife, was domiciled in India before

marriage and has been residing in India for a period of not less than three years preceding the petition, the object being to give relief to Indian women marrying persons with foreign domicile The scope of the clause has been further enlarged to provide for decrees of nullity being passed in cases where both parties to the marriage are domiciled in India or at least the petitioner is domiciled in India

Clause 36 —Subject to the restrictions contained in clause 35, this clause seeks to define the district court which will have jurisdiction in respect of petitions under the proposed law The clause has been so framed as to ensure that the question which district court will exercise jurisdiction is answered for all situations

Clause 39 —While following the language of the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954, a new provision is included whereby private persons may be associated with the court for the purpose of effecting a reconciliation between the parties

Clause 40 —This follows section 11 of the Indian Divorce Act, 1869, with the addition of the words "or adulteress" to cover cases where the wife sues the husband for divorce on the ground of adultery The court is also being given a discretion to excuse non-compliance with this clause on any other ground as in the U K Act The scope of the provision has been extended to cover petitions for judicial separation where the ground is adultery

Clause 42 —This clause provides for a *decree nisi* to be pronounced in the first instance, to be followed by a decree absolute It is also provided that where the petitioner (decree-holder) does not apply within six months to get the decree made absolute, it is open to the respondent to move the court in that bealf within a specified period

Clause 43 —While following the corresponding provisions in the Indian Divorce Act, 1869, the following changes have been made —

(1) The right to claim damages has been given to the wife also,

(2) the provision for a mere claim for damage apart from divorce has been omitted as being repugnant to modern ideas

Clauses 44 to 50 —These to a large extent follow the corresponding provisions in the Special Marriage Act, 1954, and the Hindu

Marriage Act, 1955 Wherever necessary, the language has been slightly modified in order to make the provision simpler or to get over a few minor difficulties in construction which had been experienced in the working of the two Acts, as, for example, in clause 49

Clause 51 —Although the Indian Penal Code punishes the offence of bigamy, this clause is being included in order to make it clear that a person married under this Act who contracts a second marriage under any other system of law would be equally guilty of the offence of bigamy It follows section 44 of the Special Marriage Act, 1954

Clause 52 provides for penalties in respect of the contravention of any of the other conditions laid down for a Christian marriage, and follows section 18 of the Hindu Marriage Act 1955

Clauses 53 to 60 —The penalties provided in the existing Act are rationalised and brought together in a convenient form Many of these provisions are modelled on the corresponding provisions in the Hindu Marriage Act 1955, and the Special Marriage Act, 1954

Clauses 61 to 63 —Reproduce the corresponding provisions in the Christian Marriage Act, 1872, with suitable modifications,

Clause 64 is new It appears that, in practice, marriages are solemnized at places other than churches Therefore, this practice is sought to be given statutory recognition, provided it is sanctioned by custom or usage prevalent in the community

Clause 67 provides for the free inspection of the Marriage Certificate Book and for the free supply of certified extracts therefrom if such inspection or supply is asked for by the parties to the marriage at or about the time of the marriage This provision will also apply in relation to ministers of churches.

Clause 70 is intended to protect ministers of churches in cases where by the rules of the church they are prohibited from solemnizing a particular marriage.

Clause 74 —Since the grounds which render a marriage void under the new law are not co-extensive with those given in section 19 of the Indian Divorce Act, 1869, it is necessary to ensure that a marriage performed before this new law comes into force is not rendered void by the new provision. Hence this clause.

Clause 75 repeals all existing laws, whether passed by any legislature in India or by the U K. legislature in their application to India, and contains the necessary saving provisions. By reason of section 17 of the Indian Independence Act, 1947, the two British Acts have already ceased to apply to India for all practical purposes

The First Schedule —The list of prohibited relationships has been framed on the basis of the English Marriage Act, 1949 and the Special Marriage Act, 1954, but certain items like sister's son, sister's daughter, brother's son, brother's daughter, etc , have been omitted, as in some communities such marriages are said to be common and have in fact been allowed to be solemnized by papal dispensation

FINANCIAL MEMORANDUM

Clause 9 of the Bill relates to the appointment of Marriage Registrars by the State Government which, in respect of the Union Territories, would be the Central Government. Ordinarily, existing Government officers will be appointed as Marriage Registrars and this has been the practice under the Indian Christian Marriage Act, 1872, which the present Bill seeks to replace. However, the possibility of a new officer being appointed exclusively for the purpose, in exceptional circumstances, cannot be ruled out and in that contingency some expenditure may be involved from the Consolidated Fund of India. The expenditure is of a remote and contingent character and therefore it is not possible to give any indication thereof at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 72 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. The matters in respect of which such rules may be made relate *inter alia*, to the duties and powers of Marriage Registrars, their territorial jurisdiction, the manner in which they may hold enquiries and the procedure to be followed in such enquiries, the fees for the performance of various duties under the Act, the conditions under which licences to solemnise marriages may be issued by the State Government, the surrender of such licences and other matters of procedure, form or detail, and as such the delegation of legislative power is of a normal character.

M. N KAUL,
Secretary.

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